

1 HONORABLE RICHARD A. JONES  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 AHMED AMR,  
9  
10 Plaintiff,

v.

11 SHARON WHITTAKER and ANTHONY  
12 KELLY,

Defendants.

Case No. 2:19-cv-00043-RAJ

**OMNIBUS ORDER**

14 **I. INTRODUCTION**

15 This matter comes before the Court on Defendant's Motion to Dismiss, Dkt. # 5, as  
16 well as various motions filed by the parties, including Defendant's motion for relief the  
17 Court's standing order and Plaintiff's motions for recusal, for *de novo* review of a previous  
18 case, and for disqualification of defense counsel. Dkt. ## 9, 11, 12, 13.

19 For the reasons below, the Court **GRANTS** Defendant's Motion to Dismiss and  
20 **GRANTS in part** Defendant's Motion for Relief from the Court's Standing Order. Dkt.  
21 ## 5, 9. The Court **DENIES** Plaintiff's Motion for Recusal. Dkt. # 11. The Court also  
22 **DENIES as moot** Plaintiff's Motions to Disqualify and for *De Novo* Review. Dkt. ## 12.  
23 13.

24 **II. BACKGROUND**

25 *Pro se* plaintiff Ahmed Amr alleges that Defendant Sharon Whittaker, a court  
26 administrator with the City of Edmonds, improperly shredded court documents and  
27 tampered with court filings in a municipal case where he was a defendant. Dkt. # 1 at 5.

1 Plaintiff alleges the tampering was coordinated by Judge Linda Coburn, the presiding judge  
2 in the municipal case, and that Judge Colburn directed Defendant to tamper with the court  
3 records. *Id.* at 6. Plaintiff also alleges tampering by Defendant Anthony Kelly and Judge  
4 Kevin Carey, who presided over a bankruptcy proceeding in the District of Delaware  
5 allegedly related to municipal case. *Id.*

6 Plaintiff filed his Complaint in this Court on January 10, 2019. Dkt. # 1. Plaintiff  
7 seeks an order compelling Defendants to complete the record in the actions above and cease  
8 from further tampering. *Id.* at 14. He also seeks \$550 million dollars on behalf of himself  
9 and other intervenors. *Id.* On January 24, 2019, Defendant Whittaker filed a motion to  
10 dismiss for failure to state a claim. Dkt. # 5. Plaintiff filed a response on January 29, 2019.  
11 Dkt. # 8. The parties have since filed several additional motions, including Defendant's  
12 motion for relief from the Court's standing order and Plaintiff's motions for recusal, for *de*  
13 *novo* review of a previous case, and for disqualification of defense counsel. Dkt. ## 9, 11,  
14 12, 13.

### 15 III. DISCUSSION

#### 16 A. Motion to Dismiss Under Rule 12(b)(6) (Dkt. # 5)

17 Rule 12(b)(6) requires the court to assume the truth of the complaint's factual  
18 allegations and credit all reasonable inferences arising from those allegations. *Sanders v.*  
19 *Brown*, 504 F.3d 903, 910 (9th Cir. 2007). The plaintiff must point to factual allegations  
20 that "state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550  
21 U.S. 544, 568 (2007). If the plaintiff succeeds, the complaint avoids dismissal if there is  
22 "any set of facts consistent with the allegations in the complaint" that would entitle the  
23 plaintiff to relief. *Id.* at 563; *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009) ("When there are  
24 well-pleaded factual allegations, a court should assume their veracity and then determine  
25 whether they plausibly give rise to an entitlement to relief."). The court typically cannot  
26 consider evidence beyond the four corners of the complaint, although it may rely on a  
27 document to which the complaint refers if the document is central to the party's claims and  
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1 its authenticity is not in question. *Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006).  
2 The court may also consider evidence subject to judicial notice. *United States v. Ritchie*,  
3 342 F.3d 903, 908 (9th Cir. 2003).

4 Because Plaintiff is *pro se*, the court must construe his complaint liberally when  
5 evaluating it under the *Iqbal* standard. See *Johnson v. Lucent Techs., Inc.*, 653 F.3d 1000,  
6 1011 (9th Cir. 2011). Although the court holds the pleadings of *pro se* plaintiffs to “less  
7 stringent standards than those of licensed attorneys,” *Haines v. Kerner*, 404 U.S. 519, 520  
8 (1972), “those pleadings nonetheless must meet some minimum threshold in providing a  
9 defendant with notice of what it is that it allegedly did wrong.” *Brazil v. U.S. Dep’t of the*  
10 *Navy*, 66 F.3d 193, 199 (9th Cir. 1995). Accordingly, the court should “not supply essential  
11 elements of the claim that were not initially pled.” *Bruns v. Nat’l Credit Union Admin.*,  
12 122 F.3d 1251, 1257 (9th Cir. 1997). Nevertheless, “[l]eave to amend should be granted  
13 unless the pleading could not possibly be cured by the allegation of other facts, and should  
14 be granted more liberally to *pro se* plaintiffs.” *McQuillion v. Schwarzenegger*, 369 F.3d  
15 1091, 1099 (9th Cir. 2004) (quoting *Ramirez v. Galaza*, 334 F.3d 850, 861 (9th Cir. 2003))  
16 (internal quotation marks omitted).

17 Plaintiff brings his Complaint under 18 U.S.C. § 1519, a criminal statute regarding  
18 the destruction, alteration, or falsification of records in federal investigations and  
19 bankruptcy actions. Dkt. # 1 at 3. In evaluating Defendant Whittaker’s motion, the Court  
20 first notes that 18 U.S.C. § 1519 is a federal criminal obstruction of justice statute and does  
21 not provide a private right of action. See *Bratest v. Davis Joint Unified Sch. Dist.*, 2017  
22 WL 6484308, at \*4 (E.D. Cal. Dec. 19, 2017); *Peavey v. Holder*, 657 F.Supp.2d 180, 190  
23 (D.D.C. 2009) (noting that “to date, no circuit or Supreme Court opinion has held that §  
24 1519 creates a private right of action”).

25 Even construing Plaintiff’s Complaint liberally, the Court finds it proper to grant  
26 Defendant’s motion. Plaintiff alleges primarily that Defendant shredded court documents  
27 and tampered with court filings at the direction of Judge Colburn. Dkt. # 1 at 4. Plaintiff  
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1 also claims that Defendant Whittaker “knew the record was being systematically corrupted  
2 from the start of the proceedings and she knew the plaintiff in the Edmonds proceedings .  
3 . . . was directing their counsel to tamper with the court record.” *Id.* at 6. The court is not  
4 required to accept as true allegations that are merely conclusory, unwarranted deductions  
5 of fact, or unreasonable inferences. *See Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992,  
6 998 (9th Cir. 2010); *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 (9th Cir.  
7 1994). After stripping the Complaint of these conclusory allegations, the Court finds there  
8 is no cognizable claim against Defendant.

9 Furthermore, as Defendant notes, “[j]udges are immune from suit arising out of their  
10 judicial acts, without regard to the motives with which their judicial acts are performed,  
11 and notwithstanding such acts may have been performed in excess of jurisdiction, provided  
12 there was not a clear absence of all jurisdiction over the subject matter.” *Sires v. Cole*, 320  
13 F.2d 877, 879 (9th Cir. 1963); *see also Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)  
14 (explaining that a judge will not be deprived of immunity because the action he took was  
15 in error, was done maliciously, or was in excess of his authority). A like immunity extends  
16 to other government officers whose duties are related to the judicial process. *See Mullis v.*  
17 *U.S. Bankr. Court for Dist. of Nev.*, 828 F.2d 1385, 1390 (9th Cir. 1987) (explaining that  
18 the clerk of court and deputy clerks qualify for quasi-judicial immunity unless acts were  
19 done in the clear absence of all jurisdiction); *Agnew v. Moody*, 330 F.2d 868, 870 (9th Cir.  
20 1964) (duties of clerks, bailiffs, and court reporters all relate to the judicial process).  
21 Plaintiff alleges here that Defendant was carrying out duties related to the judicial process  
22 at Judge Colburn’s direction. Dkt. # 1 at 6 (alleging that Defendant is a “experienced court  
23 administrator[]” that knows court filings should not have been shredded). It appears that  
24 any amendment to the Complaint will fall within the purview of judicial or quasi-judicial  
25 immunity. However, the Court will allow Plaintiff an opportunity to amend his Complaint  
26 to allege actions taken that are not protected by these immunity doctrines. *McQuillion*, 369  
27 F.3d at 1099.

1                   **B. Motion for Relief from Standing Order (Dkt. # 9)**

2                   Defendant's counsel moves for relief from the Court's standing order requiring the  
3 parties to meet and confer, preferably in person. Counsel explains that Plaintiff has made  
4 graphic threats to him both in emails and in person. Dkt. # 9. The Court also notes that  
5 Plaintiff has engaged in hostile behavior toward Court personnel. A district court has the  
6 inherent power to discipline parties inside and outside the courtroom if their conduct  
7 disrupts the orderly and efficient manner of court proceedings. *Chambers v. NASCO, Inc.*,  
8 501 U.S. 32, 43–44 (1991). Plaintiff is hereby **GIVEN NOTICE** that the Court has no  
9 tolerance for disruptive or threatening conduct and expects all parties to conduct  
10 themselves in an appropriate manner at all times. Any further irresponsible attacks on  
11 parties, counsel, or court personnel will result in appropriate sanctions for abuses of the  
12 judicial process. The Court will **GRANT in part** Defendant's motion and permit the meet-  
13 and-confer requirement to be satisfied telephonically.

14                  **C. Motion for Recusal (Dkt. # 11)**

15                  Plaintiff moves for the undersigned to recuse himself from presiding over the action.  
16 Dkt. # 11. In what appears to be a repeating pattern, Plaintiff now accuses this Court's  
17 deputy clerk of tampering as part of a plan to derail his case. *Id.* at 4. He claims the  
18 undersigned may be biased in favor of the deputy clerk and requests a recusal hearing. *Id.*  
19 at 5.

20                  Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself  
21 in any proceeding in which him impartiality "might reasonably be questioned." A federal  
22 judge also shall disqualify himself in circumstances where he has a personal bias or  
23 prejudice concerning a party or personal knowledge of disputed evidentiary facts  
24 concerning the proceeding. 28 U.S.C. § 455(b)(1).

25                  Under both 28 U.S.C. § 144 and 28 U.S.C. § 455, recusal of a federal judge is  
26 appropriate if "a reasonable person with knowledge of all the facts would conclude that the  
27 judge's impartiality might reasonably be questioned." *Yagman v. Republic Insurance*, 987

1 F.2d 622, 626 (9th Cir. 1993). This is an objective inquiry concerned with whether there  
2 is the appearance of bias, not whether there is bias in fact. *Preston v. United States*, 923  
3 F.2d 731, 734 (9th Cir. 1992).

4 Plaintiff's motion is completely without merit. The Court is aware of no bias against  
5 Plaintiff or in favor of Defendants. Furthermore, there must be a factual showing of a  
6 reasonable basis for questioning the impartiality of a judge, or allegations of facts  
7 establishing other disqualifying circumstances. *Maier v. Orr*, 758 F.2d 1578, 1583 (9th  
8 Cir. 1985); *see also U.S. v. Holland*, 519 F.3d 909, 912 (9th Cir. 2008) (explaining that  
9 disqualification under Section 455(a) is necessarily fact-driven and may turn on subtleties  
10 in the particular case). "Conclusory statements and unsupported beliefs and assumptions  
11 are of no effect." *Maier*, 758 F.2d at 1583. Indeed, the Ninth Circuit instructs that  
12 "[f]rivolous and improperly based suggestions that a judge recuse should be firmly  
13 declined." *Id.* The Court elects to follow this course of action. Plaintiff's motion is  
14 **DENIED**. In accordance with Local Civil Rule 3(f), this Order will be referred to the  
15 Honorable Chief Judge Ricardo S. Martinez for review of this decision.

#### 16 IV. CONCLUSION

17 For the reasons stated above, the Court **GRANTS** Defendant's Motion to Dismiss  
18 and **GRANTS** in part Defendant's Motion for Relief from the Court's Standing Order.  
19 Dkt. ## 5, 9. The Court **DENIES** Plaintiff's Motion for Recusal. Dkt. # 11. The Court  
20 also **DENIES as moot** Plaintiff's Motions to Disqualify and for *De Novo* Review. Dkt. ##  
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23 DATED this 27th day of February, 2019.

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The Honorable Richard A. Jones  
United States District